

DIVISION CIRCULAR #14

DEPARTMENT OF HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

EFFECTIVE DATE: **November 30, 2001**

DATE ISSUED: **November 2, 2001**

- I. TITLE: Reporting Unusual Incidents**
(Rescinds Division Circular #14 "Reporting and Investigation of Unusual Incidents", issued March 25, 1998.)
- II. PURPOSE:** To establish policies for the prompt reporting and tracking of unusual incidents.
- III. SCOPE:** This circular applies to all components of the Division as well as agencies or individual providers under contract with or regulated by the Division.
- IV. POLICIES:**

The Division recognizes that all persons with developmental disabilities have the right to a safe supportive environment. However, the Division also recognizes that even in a supportive environment there may be occurrences out of the ordinary. In such instances, the Division expects all personnel of the Division, as well as staff of provider agencies under contract with or regulated by the Division to take immediate steps to protect the individual, to ensure prompt medical attention, when needed, and to work to prevent future occurrences. In order to accomplish this, such occurrences must be reported as unusual incidents and appropriately followed up. Abuse and neglect of a person served may result from the lack of appropriate action on the part of staff, as

well as, deliberate action against the individual. Abuse or neglect is not limited to staff; it may be perpetrated by any person with whom the individual served comes in contact.

All unusual incidents shall be reported in accordance with this circular.

In addition to the reporting requirements of the Division, all reports required by New Jersey law shall be made to the appropriate agencies. (N.J.S.A. 9:6-8.10 and 52:27 G-1 et seq.)

The Chief Executive Officer of each Developmental Center shall be responsible to notify the Human Services Police of those incidents described in A.O. 1:50.

The individual's guardian shall be informed of all A+ A, and B unusual incidents which are client-specific.

The first duty of all persons involved is to ensure the health and safety of the individual served. It is the responsibility of all employees of the Division as well as employees of agencies under contract with or regulated by the Division as well as individual providers to report unusual incidents within the time frames contained in this circular and cooperate in their investigation. Failure to report an unusual incident or cooperate in an investigation may result in corrective action.

Reports of unusual incidents shall be sent to the UIR Coordinator, Special Response Unit, and to the Office of Operations Support, Department of Human Services by the designated persons in the developmental centers and regional offices.

Law enforcement authorities shall be advised of any suspected criminal activities.

All unusual incidents shall be reviewed and efforts shall be made to prevent their recurrence.

The reports of investigations shall be confidential in accordance with Division Circular #30 (N.J.A.C. 10:41-1).

V. **GENERAL STANDARDS:**

A. Definitions - for the purposes of this circular, the following terms shall have the meaning defined herein:

1. "Abuse" means any act or omission that deprives an individual of his/her rights or which has the potential to cause or causes actual physical injury or emotional harm or distress. Examples of abuse include, but are not limited to: acts that cause pain, cuts, bruises, loss of body function, sexual abuse, temporary or permanent disfigurement, death; striking with a closed or open hand; pushing to the ground or shoving aggressively, twisting a limb, pulling hair; withholding food; forcing an individual to eat obnoxious substances; use of verbal or other communication to curse, vilify, degrade an individual or threaten with physical injury; unwanted or coerced physical contact of any kind. Planned use of behavioral intervention techniques, which are part of an approved behavior modification plan or Individual Habilitation Plan, shall not be considered to be abuse or neglect.
2. "Bureau of Guardianship" means that component of the Division that is responsible to act as a guardian of an individual.
3. "Category A+ incident" means a highly unusual incident or event posing imminent threat to life or safety. Examples include, but are not limited to: homicide, suicide, unexpected deaths, major fires, hostage taking and bomb threats. See Appendix A for additional examples.
4. "Category A incident" means a serious threat to life and/or safety. Examples include, but are not limited to: natural or expected deaths, sexual abuse, physical abuse, assault and elopement. See Appendix A for additional examples.

5. "Category B incident" means an occurrence where the threat to life or safety is not imminent. Examples include, but are not limited to: alleged physical/verbal abuse or neglect not resulting in major injury, and moderate injuries. See Appendix A for additional examples.
6. "Component" means regional assistant director's office, developmental center, regional office, bureau, office or unit of the Division of Developmental Disabilities.
7. "Corrective Action" means those measures which are intended to reduce the likelihood that the incident will recur. Such actions include, but are not limited to: criminal prosecution, removal of an individual from a program, disciplinary action, licensure suspension or revocation, improvements in the physical plant, revision of operating procedures, and staff training.
8. "Domestic Violence" means any physical, emotional or verbal abuse between persons not receiving services which occurs in a residence licensed, contracted or regulated by the Division. Domestic violence involves at least one person who is not an employee and is not a person who is receiving services.
9. "Exploitation" means any unjust or improper use of an individual or his/her resources for one's profit, advantage, or gratification.
10. "Health Issues Including Clustered Illness Outbreak and Department of Health Reportable Diseases" means those illnesses reportable to the New Jersey Department of Health under its code on reportable health incidents in Chapter 2, New Jersey Sanitary Code, Reportable Diseases. A cluster or outbreak of a disease or illness occurs when the incidence of a disease or illness exceeds the incidence normally expected by the professional medical staff. A complete list of reportable diseases is found at N.J.A.C. 8:57-1.3.

11. "Investigation" means the systematic inquiry into the factors which have contributed to a report of an unusual incident. An investigation may range from a brief examination of records and statements to a comprehensive collection and analysis of all pertinent evidence.
12. "Level of Injury" means an injury in one of the following categories:
 - a. "No injury" - No evidence of abrasion or bruising and no complaint of pain following, for example, a fall.
 - b. "Minor" - Any small bruise or abrasion that does not require treatment and will heal within several days. Examples: nosebleed, small laceration without sutures or dermabond.
 - c. "Moderate" - Injury requiring medical treatment beyond physical examination that is not considered major. For example, a small cut that required suturing; bone injury or soft tissue damage that does not meet the criteria for major injury, or a human bite that breaks the skin. Bruises and contusions are considered moderate if they require treatment.
 - d. "Major (Serious)" - Includes, but is not limited to: any fracture of skull, long bones, ribs, spine, or pelvis; head injury, such as concussion; wounds requiring extensive suturing; any adult bites to a child; extensive burns; bodily injury resulting in gastrointestinal symptoms or genitourinary symptoms; teeth knocked out; injury to the eye; injury causing large or multiple hematomas; choking injury leaving marks; any injury requiring admission to a hospital.
13. "Major Property Loss or Damage" means any damage which renders a facility, vehicle or equipment valued at more than \$5,000 unusable and/or interferes with the care of the

individual or facility operations. Also, major loss may be defined by the loss or damage from a pattern or series of related incidents.

For an individual served, reportable property loss or damage (Category B) is defined as anything of a value greater than \$100.00.

14. "Neglect" means the failure of a paid or unpaid caregiver to provide for the care and safety of individuals under his or her supervision, including but not limited to, failure to provide and maintain proper and sufficient food, clothing, health care, shelter and/or supervision.
15. "Newsworthy" means an incident which impacts the Department or Division or individuals served by them in a manner that could or has already attracted media interest or calls, especially those incidents involving potential criminal charges, famous, notorious or dangerous people, and/or relating to a "hot" news item.

An incident is considered newsworthy if at least one of the following circumstances applies:

- there has already been a call from media;
- it is of local or statewide interest;
- it involves criminal charges;
- it involves famous or notorious people or their relative; or
- it relates to a "hot" news item.

16. "Office of Licensing and Inspections (OLI)" means that component of the Division that licenses community residences for the developmentally disabled persons with head injuries and inspects private residential facilities for persons with developmental disabilities in New Jersey which are licensed by the N.J. Department of Health.

17. "Regional Assistant Director (RAD)" means an individual appointed by the Division Director to plan, organize and deliver integrated community-based and institutional services to specific regions. The RAD shall ensure that the reporting of unusual incidents in each region complies with the procedures contained in this circular.
18. "Residential Health Care Facility" means a long term care alternative that provides a home-like atmosphere, food, recreational activities, supervision of medication needs, and assistance in getting health services. These facilities are licensed by the NJ Department of Health and Senior Services.
19. "Sexual contact nonconsensual" means physical or verbal contact, between individuals receiving services, which is not explicitly, sexual assault. This may include: caressing, groping, grabbing the body through the clothing without the expressed consent of the recipient; as well as provocative language meant to arouse, insult or degrade the recipient.
20. "Special Response Unit (SRU)" means that component of the Division responsible for investigating and monitoring unusual incidents, involving allegations of abuse, neglect or exploitation in community programs licensed, contracted or regulated by the Division.
21. "Unusual Incident" means an event involving an individual served by the Division or employee involving indications or allegations of criminal actions, injury, negligence, exploitation, abuse, clinical mismanagement or medical malpractice, a major unforeseen event, e.g., serious fire, explosion, power failure that presents a significant danger to the safety or well being of individuals served and/or employees; or a newsworthy incident. In this circular, the term "incident" shall refer to an unusual incident.

22. "Unusual Incident Report Coordinator" means an individual assigned by the Chief, SRU, to carry out the unusual incident reporting system.
- B. Accidents involving state vehicles in which there is no personal injury shall be reported according to Treasury Circular 3-87 and are not covered by this circular.
- C. In the event of an accident involving a state vehicle, drug/alcohol testing in accordance with Appendix E shall be required of the employee with a commercial driver's license (CDL) operating the state vehicle, in addition to the filing of an unusual incident report. The immediate supervisor may have a reasonable suspicion of drug or alcohol use by the employee, if one of the following occurs:
1. There is loss of human life; or
 2. A traffic citation is issued to the driver.
- D. The legal guardian or family shall be notified of all client specific Category A+, A and B incidents by:
1. staff of the developmental center;
 2. provider agency if the person lives in a facility licensed under N.J.A.C. 10:44A unless the incident report is made by regional staff. In that instance, regional staff shall contact the legal guardian or family;
 3. staff of the private residences for persons with developmental disabilities if licensed under N.J.A.C. 10:47;
 4. staff of the day program;
 5. regional staff for facilities licensed as community care residences under N.J.A.C. 10:44B;
 6. regional staff for all other incidents.

Notification may be by telephone, by facsimile machine or in person as soon as possible, but no later than the next working day. The type of notification and date shall be documented in the client record.

- E. All complaints of abuse, neglect or exploitation shall be considered to be allegations unless the matter is substantiated by the preponderance of the evidence following an investigation.
- F. Administrative staff of each region or developmental center shall be designated to notify the Department's Office of Public Information of A+ incidents after normal working hours in accordance with the DHS Administrative Order 2:05 on unusual incidents.
- G. Incidents of criminal nature must be reported to law enforcement agencies by providers licensed under N.J.A.C. 10:44A, 10:44B and 10:47 or Division personnel in accordance with DC #15, "Complaint Investigations In Community Programs", Section VI.
- H. Suspected abuse or neglect of persons under the age of 18 shall be reported to the N.J. Division of Youth and Family Services in addition to the reporting requirements contained in this circular.
- I. Suspected abuse or neglect of individuals over the age of eighteen (18), residing in their own home shall be reported, within three (3) working days, to the county Adult Protective Services agency in addition to the reporting requirements contained in this circular.
- J. Suspected abuse or neglect of any person 60 years of age or older who resides in living arrangements other than their own home, shall be reported within three (3) working days to the N.J. Office of the Ombudsman in addition to the reporting requirements contained in this circular.
- K. Suspected abuse or neglect of persons who reside in boarding homes or residential health care facilities shall be reported within three (3) working days to the local county Boards of Social Services in addition to the reporting requirements contained in this circular.

- L. Suspected abuse or neglect of persons who reside in facilities licensed by the Department of Health including but not limited to nursing homes, residential health care facilities, private residential facilities for persons with developmental disabilities, etc., shall be reported within three (3) working days to the N.J. Department of Health in addition to the reporting requirements contained in this circular.
- M. Incidents which occur in programs for persons with head injuries, licensed by the Division, shall be reported to the UIR Coordinator.
- N. Allegations received by the Division from any source (anonymous or known) shall be initially reported to an assigned Division staff member.
- O. Each Division component shall have internal procedures for the investigation of unusual incidents that do not fall under the purview of the SRU in accordance with DC #15.
- P. SRU and agencies under contract with or regulated by the Division shall have internal procedures for the investigation of unusual incidents in accordance with DC #15.
- Q. A community provider agency under contract with the Division or licensed in accordance with N.J.A.C. 10:44A may immediately initiate an independent investigation. This does not however, relieve the provider agency of the responsibility to make an initial report to the Division. The results of that independent investigation shall be shared with the Special Response Unit and the appropriate Community Services Regional Office.
- R. The Division Director, Deputy Director, RAD and Chief SRU reserve the right to initiate the investigation of an unusual incident at his/her discretion.
- S. The Chief, Bureau of Guardianship Services, may request an investigation for suspected violations of individual rights.
- T. If it appears that there may be a violation of the N.J. Code of Criminal Justice, in

developmental centers, the matter shall be referred to the Human Services Police pursuant to Administrative Order 1:50. In community programs licensed under 10:44A, the provider agency shall be responsible to report the matter to the appropriate law enforcement agency in accordance with DC #15. If the provider agency has reported the matter to a law enforcement agency, it must immediately inform the Regional Administrator's Office and the Special Response Unit. In community programs licensed under 10:44B, the region shall be responsible to report the matter to the appropriate law enforcement agency. The law enforcement agency shall determine the required procedures for further action. The Special Response Unit shall act as the Division's liaison to law enforcement agencies.

- U. Each provider agency under contract shall identify one individual who has overall responsibility for incident management.
- V. Abuse and neglect reporting procedures shall be reviewed with the individual and his or her legal guardian and family no less than annually.
 - 1. For developmental centers the IDT.
 - 2. For community residences licensed under 10:44A the provider agency.
 - 3. For community residences licensed under 10:44B the case manager.
- W. Supervisors should regularly discuss with staff, procedures for reporting unusual incidents giving examples relevant to the worksite.
 - 1. For developmental center the IDT.
 - 2. For community residences licensed under 10:44A the provider agency.
 - 3. For community residences licensed under 10:44B the case manager.
- X. A pamphlet summarizing the content of this circular will be provided to individuals, legal guardian and/or family. See Appendix D.

VI. Procedures

A. Reporting

1. The incident shall be reported to the designated person(s) in the developmental center or regional office. Provider agencies shall report all incidents to the appropriate regional office. The provider agencies shall use the DHS INITIAL REPORT FORM or they may use an agency internal form as long as all the information required on the DSH form is provided. **Note: If a provider decides to use an agency form, the form must be submitted with a description of how the form is used to the Division's Assistant Director, Continuous Quality Enhancement for approval.** See Appendix B for the DHS form.
2. The Regional Assistant Director shall ensure that there are on-call persons to receive Category A+ and A incidents after regular working hours. After normal working hours the on-call person shall be responsible to report A+ incidents too the RAD and the Office of Public Information immediately by telephone.
3. Unusual incidents shall be divided into the categories contained in Appendix A of this circular.
 - a. A+ incidents shall be reported immediately by telephone.
 - b. Written reports of A+ and A incidents shall be forwarded the same working day during normal working hours. If the incident occurs after regular working hours, the written incident report shall be forwarded the next working day.
 - c. Written reports of B incidents shall be forwarded the next working day.
4. The designated person in the developmental center or regional office shall forward reports of the A+, A and B incidents to the

Unusual Incident Coordinator and to the Office of Operations Support, DHS.

5. The UIR Coordinator and/or designee shall be responsible to notify the Director and/or designee of Category A+ and A incidents.
6. **Copies of all unusual incident reports involving community programs licensed, contracted or regulated by the Division shall be forwarded to the Chief, SRU by the UIR Coordinator or designee.**
7. If the program serves persons with head injuries, the report shall be forwarded to the UIR Coordinator.
8. If the incident involves an individual served by BGS, the UIR Coordinator shall report the Category A+, A and B incidents to the respective BGS office.
9. The UIR Coordinator or designee will distribute to the OLI all incidents involving programs regulated by OLI.
10. A copy of all unusual incident reports shall be filed in the client record. A component/agency may also elect to maintain a comprehensive file of incident reports as specified by internal procedures.
11. The copy of the unusual incident report included in the client record shall only have client-specific information. The report forwarded to the UIR Coordinator shall have all information identifying person(s) served and all other involved in the incident.
12. The UIR Coordinator shall report all newsworthy incidents involving persons receiving services deaths within 24-hours. The UIR Coordinator shall forward summaries of persons receiving services death incidents to the New Jersey Protection and Advocacy every two weeks.

13. A copy of all A+ and A incidents shall be provided to the Regional Assistant Director by the UIR Coordinator.

B. Responsibility of the Developmental Center.

1. The RAD shall assure that the CEO of a developmental center assigns a staff member to review category A+ or A incidents immediately and category B incidents within 24 hours of the report. The staff member shall review any available information and shall:
 - a. determine if remedial action is needed;
 - i. Relocate person receiving service/staff if there appears to be imminent danger;
 - ii. Secure medical attention;
 - iii. Notify the HSP if a criminal act appears to have occurred.
 - b. determine whether an investigation is necessary;
 - c. suggest to the CEO possible corrective actions including training, supervision changes, procedural changes and/or disciplinary action;
 - d. close the report.
2. If the initial report is closed, the reasons for closure shall be documented on the UIR.

C. Responsibility of the Regional Office/Provider Agency

1. The RAD shall assure that the regional administrator assign a staff member to review Category A+ or A incident reports immediately and Category B incident reports the same working day they are received.

2. The Division/Agency staff member shall review any available information and determine if remedial action is needed or was already taken, including but not limited to:
 - a. Relocating the person receiving services/staff if there appears to be imminent danger;
 - b. Securing medical attention;
 - c. Notifying police if a criminal act appears to have occurred.
 3. If Division staff reviewer determines other remedial action is needed, they will consult with the provider agency.
- D. Special Response Unit
1. The Chief, SRU, shall appoint an Unusual Incident Coordinator who shall be responsible for the following:
 - a. Receive A+, A and B incidents;
 - b. Evaluate the accuracy, timeliness, completeness and conformity with policy of UIRs received and make corrections when necessary;
 - c. Distribute all UIRs to appropriate Department and Division personnel;
 - d. Notify New Jersey Protection and Advocacy of deaths;
 - e. Maintain a UIR database to analyze trends and patterns in order to identify operational deficiencies and to develop quality assurance mechanisms.
- E. Police Involvement For Community Care Residences (Sponsor Homes)

Police contact regarding any person living in a home licensed under N.J.A.C. 10:44B shall be reported in accordance with Appendix A.

1. When the report is made to a Community Services' office, staff of the region shall take action to ensure the individuals receiving services are safe.
2. SRU shall contact the local police to determine the details of the arrest or conviction.
3. When the Office of Licensing and Inspection receives confirmation of an arrest or conviction as a result of a criminal background check, OLI shall determine if any licensing action will be taken.

F. Division Unusual Incident Follow-Up and Closure

1. Within 5 working days developmental centers shall be responsible to submit an internal investigative report of findings of the incident.
2. In cases involving abuse, neglect and exploitation in community programs licensed or contracted by the Division, the Special Response Unit (SRU) shall either conduct the investigation or monitor the provider agency's investigation. In such cases, the SRU will be responsible to review reports, submit follow-ups and closeout the incident.
3. The SRU will notify the following individuals by e-mail when it has taken follow-up and closure responsibilities for an incident: the UIR Coordinator, Regional Administrator, County Administrator, Case Management Area Supervisor, OLI, and when appropriate, the Adult Training Services Coordinator and BGS.
4. Agencies/Community Care Residence providers will be notified of the status of an SRU investigation in accordance with Division Circular #15, "Complaint Investigations in Community Programs".

5. Upon notification of SRU's involvement, the Regional Office is not responsible for conducting an investigation and closing out the incident.
 6. In cases where the SRU is not involved, the Regional Office is responsible to follow-up and close the incident.
- G. UIR Follow-Up Timelines For Community Programs
1. Follow-up reports shall be made on the DHS INCIDENT FOLLOW-UP REPORT FORM and forwarded to the UIR Coordinator, Appendix C with attachments as necessary;
 2. A follow-up report for Category A+, A and B incidents shall be completed and submitted by the designated provider agency or Division staff when one of the following occurs:
 - a. Additional critical information becomes available, particularly when it changes the reporting category of the incident. Such additional information is required to be reported as it becomes known;
 - b. The internal investigation is completed;
 - c. The pending incident is discussed at an Unusual Incident Review Committee, Risk Management Committee or other pertinent review committee; or
 - d. The incident is closed.
 3. Supervisory staff shall be responsible to follow-up with their employees every 30 days following an incident to ensure progress is being made toward the closure of the incident.
 4. Follow-up reporting shall continue whenever substantial information is obtained leading to the closing of the incident.
 5. The UIR Coordinator shall prepare a list of pending UIRs and forward it to Operations Support, DHS every 30 days.

6. If an incident is a high priority, critical nature, immediate follow-up reporting should occur, i.e., major fire, homicide, suicide.
7. Provider agencies shall send all follow-up information to the Regional Office. In those cases when an agency conducts an investigation, the investigation report shall be forwarded to the Regional Office and the SRU.

H. Internal Division Reports of Pending Incidents

1. The UIR Coordinator and/or designee shall be responsible to prepare a quarterly report that identifies all pending unusual incidents. The quarterly report shall:
 - a. Be forwarded to the SRU, RAD, CEOs, Regional Administrators and staff designated by the CEOs and Regional Administrators.
 - b. Indicate the UIR code number, date of incident, subject/victim, case manager and any SRU involvement, as appropriate.
 - c. Be prepared separately for each reporting site.
2. Supervisory staff shall assure that their employees submit follow-up reports immediately upon notification of a pending report, if there is substantial information to report.

H. Recommendations

1. Responsible staff of the developmental center/community services/provider agency shall assure that recommendations are addressed.
2. Each developmental center and regional office shall establish an Unusual Incident Review Committee, which will review a sampling of UIRs to determine if UIR recommendations have been appropriately addressed.

3. The Division's Unusual Incident Review Committee shall:
 - a. Have interdisciplinary membership;
 - b. Meet a minimum of quarterly;
 - c. Distribute minutes following each meeting.

Deborah Trub Wehrlen
Director

APPENDIX A: DDD CLASSIFICATION OF INCIDENT CATEGORIES

*** Indicates incidents of a potentially criminal nature -- Refer to Division Circular #15 for reporting requirements to law enforcement agencies

| TYPE | A+ | A | B |
|------------------|---|--|--|
| ABUSE | | <p>Alleged/suspected physical with major injury - to person served ***</p> <p>Alleged/suspected sexual - to person served***</p> <p>Serious abuse of a person served***</p> <p>Substantiated***</p> | <p>Alleged/suspected physical -- any other***</p> <p>Alleged/suspected verbal -- to person served, including remarks intended to induce fear or to provoke a person served to maladaptive behaviors***</p> |
| ADMINISTRATIVE | <p>Significant, unexpected staff shortage; appearance of organized job action or causing threat to life and safety</p> <p>Mass disturbances of persons served, causing threat to life and safety***</p> <p>Highly unusual incidents posing an immediate threat to life and safety, such as hostage-taking, bomb threats, catastrophe, etc. ***</p> | <p>Alleged criminal activity by employee/person served/provider, if it causes harm***</p> <p>Any considered newsworthy</p> <p>Any incident reported to DOH, DEP, County Prosecutor, police or fire department or to DCA should they choose to conduct an investigation***</p> <p>Any incident/operational breakdown that causes a threat to life and safety and/or requires the residential relocation of persons served, such as an electrical blackout, telephone outage, natural disaster, staff shortage</p> | <p>Alleged/suspected criminal activity by employee, person served, or provider, resulting in police involvement, and having the potential to cause harm***</p> <p>Mass disturbances of persons served, other</p> <p>Spills, illegal dumping, etc.***</p> |
| ASSAULT | | <p>Major injury - employee, person served, any other***</p> <p>Alleged/suspected sexual - employee, person served, any other***</p> | <p>Moderate injury -- employee, person served, any other***</p> <p>Alleged/suspected sexual contact -- nonconsensual -- person served to person served***</p> <p>Domestic violence***</p> |
| CONTRABAND | | <p>Drugs, organized distribution***</p> <p>Weapons***</p> | <p>Drugs, use or possession***</p> <p>Alcohol for minors, persons served with a potential for pharmacological reaction***</p> <p>Legally recognized items, e.g., fireworks, etc., which pose a threat to life, safety, or operations</p> |
| DEATH | <p>Sudden and unusual deaths, including suicides and homicides***</p> | <p>Natural or expected deaths</p> | |
| DISEASE /ILLNESS | | <p>Serious outbreak, clustered illness</p> <p>Single incident of disease reportable to DOH</p> | |

APPENDIX A: DDD CLASSIFICATION OF INCIDENT CATEGORIES

*** Indicates incidents of a potentially criminal nature -- Refer to Division Circular #15 for reporting requirements to law enforcement agencies

| TYPE | A+ | A | B |
|--------------------------------|--|--|--|
| ELOPEMENT | Person served potentially dangerous, high profile ; or notorious ; defined as being known to be predisposed to violent or dangerous behavior | Person served at serious risk due to disability or dangerous to themselves, discovered missing, not located after reasonable search | Person served observed leaving program or does not return as scheduled, not located after reasonable search |
| EXPLOITATION | | Any unjust, improper, or potentially criminal use of a person served or his/her resources for one's profit, advantage, or gratification*** | |
| FIRE | Major -- resulting in injuries ; of suspicious nature ; OR, causing property damage rendering facility or part thereof unusable*** | | Minor , requiring outside assistance to extinguish or contain |
| INJURY | | Major - accidental, self-injurious, or of unknown origin*** | Moderate - accidental, self-injurious, or of unknown origin*** |
| LOSS | | Major property loss, theft, or damage, valued at more than \$5000, which renders a facility, vehicle or equipment unusable or interferes with care of persons served or facility operations*** Loss to person served, value > \$200*** | Loss, theft or damage, such as to facility, vehicle or equipment, which results in potential or actual threat to health, safety, or agency perations*** Loss to person served, value between \$100 and \$200*** |
| MEDICATION/ TREATMENT ERROR | | Those with serious effects requiring medical intervention*** | Those with potentially serious consequences |
| NEGLECT | | Alleged/suspected, major injury*** Substantiated*** | Alleged/suspected, no major injury*** Inadequate supervision*** |
| RESTRAINT USE | | Major injury resulting from, or happening while in, physical restraints*** | Moderate injury resulting from, or happening while in, physical restraints*** |
| SUICIDE ATTEMPT | | Resulting in major injury | Excluding verbal threats or gestures, all others |

CONFIDENTIAL

Department of Human Services

INITIAL INCIDENT REPORT FORM

DIVISION OF DEVELOPMENTAL DISABILITIES

| DDD – Provider/Agency/Facility | Date of Incident | Time of Incident | Shift | |
|--------------------------------|------------------|------------------|--|---------------|
| | | | <input type="checkbox"/> day <input type="checkbox"/> afternoon <input type="checkbox"/> overnight | |
| Address (community only) | Residence Type | VID# | Region | Incident Code |
| | | | | |

Reporting Code: (check one) ☐ A+ ☐ A ☐ B Incident Type Code: _____

Incident Type: _____

Location of Incident: _____

Description:

| Role | Name (last, first) | Status | Consumer ID #/Staff Title | Age | Sex | Injury Level |
|------|----------------------|--------|---------------------------|-----|-----|--------------|
| | | | | | | |
| | Guardianship Status: | | Case Manager: | | | |
| | | | | | | |
| | Guardianship Status: | | Case Manager: | | | |
| | | | | | | |

| | | | | |
|-------------------|--------------------------|---------------------|-------------|------|
| Codes for Role: | AP = Alleged Perpetrator | VS = Victim/Subject | | |
| Codes for Status: | SR = Services Recipient | E = Employee | V = Visitor | |
| Codes for Injury | Major | Moderate | Minor | None |

| Role | Name (last, first) | Status | Consumer ID #/Staff Title | Age | Sex | Injury Level |
|------|----------------------|--------|---------------------------|-----|-----|--------------|
| | Guardianship Status: | | Case Manager: | | | |
| | | | | | | |
| | Guardianship Status: | | Case Manager: | | | |

CONFIDENTIAL**DEPARTMENT OF HUMAN SERVICES****INITIAL INCIDENT REPORT FORM****DIVISION OF DEVELOPMENTAL DISABILITIES**

| DDD – Provider/Agency/Facility | Date of Incident | Time of Incident | Shift |
|--------------------------------|------------------|------------------|--|
| | | | <input type="checkbox"/> day <input type="checkbox"/> afternoon <input type="checkbox"/> overnight |

Incident Status: (check one) ☐ Pending ☐ Closed

Date First Known to Staff: _____
Who Has Been Notified:

(check all that apply)

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> DYFS | <input type="checkbox"/> Ombudsman | <input type="checkbox"/> Adult Protective Serv. | <input type="checkbox"/> Prosecutor |
| <input type="checkbox"/> Special Response Unit | <input type="checkbox"/> Office of Licensing | <input type="checkbox"/> Dept. of Health | <input type="checkbox"/> Dept Comm Affairs |
| <input type="checkbox"/> Family | <input type="checkbox"/> B Guardianship Serv. | <input type="checkbox"/> Human Services Police | <input type="checkbox"/> Other |
| <input type="checkbox"/> Guardian | <input type="checkbox"/> Medical Examiner | | |

| Name | Org/Relation | Date | Time |
|------|--------------|------|------|
| | | | |
| | | | |
| | | | |

Actions Taken or To Be Taken:

- | | | |
|--|--|--|
| <input type="checkbox"/> Transfer of Alleged Perpetrator | <input type="checkbox"/> Policy/Procedure Change | <input type="checkbox"/> Patient Treated by: _____ |
| <input type="checkbox"/> Transfer of Alleged Victim | <input type="checkbox"/> Training | <input type="checkbox"/> Autopsy Scheduled: _____ |
| <input type="checkbox"/> Interdisciplinary Team Review | <input type="checkbox"/> Changes in Facility | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Further Investigation | <input type="checkbox"/> None/Closed no further action | |
| <input type="checkbox"/> Community Services Follow-up: _____ | | |

Witness Names:**Titles:**

| | |
|--|--|
| | |
| | |
| | |

Additional Comments: _____

The information contained herein is, to the best of my knowledge, a true and accurate representation of the facts and events that relate to this incident. I understand that falsification, misrepresentation or distortion of any aspect of this written account will be due cause for the initiation of appropriate disciplinary and/or legal action by the Division of Developmental Disabilities.

Reported by: _____ **Title:** _____ **Phone:** _____

For additional details: _____ **Title:** _____ **Phone:** _____

For D.D.D. Use Only

| | | |
|--------------------------------------|--------------------|--------------------|
| Reported to UIR Coord.: _____ | Date: _____ | Time: _____ |
|--------------------------------------|--------------------|--------------------|

CONFIDENTIAL

INITIAL REPORTING CATEGORY

☐A+ ☐A ☐B

DEPARTMENT OF HUMAN SERVICES

INCIDENT FOLLOW-UP REPORT

| Client Name | Agency/Sponsor | Program |
|-------------|----------------|---------|
| | | |

| Address (community only) | Incident Code | Div. | Region | Initial Incident Date |
|--------------------------|---------------|------|--------|-----------------------|
| | | DDD | | |

Reason for this Report:

- ☐ New Information (provide details on page 2)
☐ Investigation Completed
☐ Committee Decision or Review (DDD and MH only)
☐ Other Administrative Review
☐ 30 day ☐ 3 mos. ☐ 5 mos. ☐ 7 mos. ☐ 9 mos. ☐ 11 mos. ☐ other elapsed time
☐ Other (please specify in remarks section on page 2)

Does this report upgrade a B/A incident to an A/A+? ☐no ☐yes (provide details on page 2)

Current Status

☐ Completed (please complete section A, B, C) ☐ Pending (please complete sections A and C)

Section A – Status of Reports

Please note the status of reports from each of the following sources as either:

Pending, Completed or Not Applicable

____ Prosecutor ____ DOH ____ DCA/Ombudsman ____ DYFS
____ H Ser Police ____ Med. Examiner ____ Public Advocate
____ Internal Committees (please name) _____
____ Internal Committees (please name) _____

Section B – If incident is to be closed, please check the level of findings

(Complete only if incident involved alleged misconduct)

PROVIDE DETAILS OF INVESTIGATIVE CONCLUSION ON PAGE 2

- ☐ Unfounded ☐ Substantiated w/Mitigating Factors
☐ Unsubstantiated ☐ Substantiated
☐ Unsubstantiated w/Concerns

Section C – Actions to be Taken (Provide details on page 2 for any option)

- ☐ Change in treatment plan (name client on page 2) ☐ Policy/procedure change
☐ Training ☐ Changes in Facility
☐ Personnel: ☐ Reassign ☐ Suspension ☐ Removal/ termination ☐ Referral to Employee ☐ Other Relations
(name staff on pg 2) w/pay
☐ Other (please specify in remarks section on page 2)
☐ None

Name: _____ Incident Code: _____

REMARKS**SUMMARY OF INITIAL INCIDENT**

NEW INFORMATION

OTHER REASON FOR REPORT

UPGRADE B/A TO A/A+

SUMMARY OF DETAILS OF INVESTIGATIVE CONCLUSION

ACTIONS TO BE TAKEN (name client if change in treatment plan; name employee if personnel action)

| |
|--------------------------------------|
| OTHER REMARKS/RECOMMENDATIONS |
|--------------------------------------|

The information contained herein is, to the best of my knowledge, a true and accurate representation of the facts and events that relate to this incident. I understand that falsification, misrepresentation or distortion of any aspect of this written account will be due cause for the initiation of appropriate disciplinary and/or legal action by the Division of Developmental Disabilities.

Report completed by: _____ Date: _____

Report reviewed by: _____ Date: _____

Unusual Incident Guidelines:

- *All DDD staff, providers and staff of all agencies DDD contracts with/regulates must report incidents in required time frames and cooperate in investigations.*
- *Reports of investigations must be kept confidential as required by N.J.A.C. 10:41 (Circular #30).*
- *Reported abuse, neglect or exploitation must always be considered an allegation unless it has been substantiated.*
- *Outside agencies that are required to investigate incidents must receive prompt notification.*
- *If it appears the state Criminal Justice code has been violated, notify area law enforcement officials (in developmental centers, the Human Services Police).*
- *Report incidents to your regional office; use the following numbers during or after office hours:*

Northern: 973/927-2600

Upper Central: 973/324-2000

Lower Central: 609/292-4500

Southern: 609/561-5070

***New Jersey Department of Human Services
Division of Developmental Disabilities
P.O. Box 726
Trenton, New Jersey 08625-0726***

Your Guide to:



Unusual Incident Reports

in compliance with

New Jersey Division of Developmental Disabilities (DDD) Circular #14

This guide is intended to assist individuals and families served by DDD, employees, providers and other stakeholders in managing unusual events effectively. While incidents inevitably occur in any setting, and usually cause some disruption, complying with Circular #14 will help to minimize their negative effects and to safeguard the health, well-being and property of people with developmental disabilities and those who serve them.

If you have any questions about when, how and to whom an incident should be reported, contact your case manager or the Regional Assistant Director office serving your county:

New Jersey Department of Human Services

*Gwendolyn L. Harris,
Commissioner*

*Division of Developmental Disabilities
James W. Smith, Jr., Director*

DDD Classifications of Unusual Incidents

A+ Incidents

- Sudden and unusual ***deaths***, including suicides, homicides and accidents
- ***Fires*** resulting in injury, rendering all or part of a facility unusable and/or of a suspicious nature
- ***Unexpected staff shortages*** that threaten life and safety and/or indicate organized job action
- Events posing an ***immediate threat of danger*** (bomb threats, mass disturbances, hostage taking, etc.)
- ***Elopement*** of individual served who is high-profile or known to be potentially dangerous violence-prone

A Incidents

- ***Serious abuse***, sexual or physical assault, or neglect that causes major injury
- ***Major injury*** of staff, provider or person served due to accident, self-injury or other cause
- Discovery of ***weapons*** or ***organized distribution*** of illegal ***drugs***
- ***Criminal activity*** by staff, provider or person served causing harm and/or considered newsworthy
- ***Medication/treatment error*** with serious effects requiring medical intervention
- ***Major injury*** resulting from, or happening while the victim is in, physical restraints
- ***Loss, theft or damage*** interfering with care or operations or destroying property valued at \$5,000+
- Incident of ***disease*** reportable to Department of Health, serious outbreak of ***illness*** or cluster of illness
- Natural or expected ***deaths***

B Incidents

- ***Moderate injury*** of staff, provider or person served due to accident, self-injury, assault or other cause
- ***Minor fires*** requiring outside help to extinguish or contain, ***illegal dumping or spills***
- Potentially harmful ***criminal activity*** by staff, provider or person served, resulting in police involvement
- ***Exploitation*** or ***verbal abuse*** of person served, including threats or provocation to behave improperly
- Presence of ***drugs*** or potentially harmful ***contraband items*** (e.g. fireworks)
- ***Alcohol use*** by minor or person served with potential for a pharmacological reaction
- ***Loss, theft or damage*** threatening health safety or agency operation or loss valued at \$100+ to person served
- Person served seen ***leaving program*** or ***not returning*** on schedule and ***not found*** after reasonable search
- Reported ***nonconsensual sexual contact*** between one person served and another
- ***Suicide attempt, domestic abuse, neglect, inadequate supervision*** or ***mass disturbance*** without serious injury
- ***Moderate injury*** due to, or during, ***physical restraint*** or potentially serious ***medication/treatment error***

How Incidents are Defined

For the purposes of Division Circular #14, the definitions are as follows:

Abuse - any act or omission depriving a person of his/her rights or causing or having potential to cause physical injury, emotional harm or distress. Examples include acts that cause pain, cuts, bruises, sexual abuse, loss of body function, disfigurement or death

Neglect - failure of paid or unpaid caregiver to provide for care and safety of those under his/her supervision (e.g. failing to provide or maintain proper and sufficient food, clothing, health care, shelter and/or supervision)

Exploitation - any unjust or improper use of a person or his/her resources for one's profit, advantage or gratification

Category A+ Incident - a highly unusual incident or event posing imminent threat to life or safety such as homicide, suicide, major fires, hostage taking and bomb threats.

Category A Incident - a serious threat to life and/or safety such as sexual abuse, assault, physical abuse and elopement

Category B Incident - an occurrence where the threat to life or safety is not imminent such as verbal abuse, moderate injuries, theft and minor fires

APPENDIX E

STATEWIDE POLICY DRUG & ALCOHOL TESTING OF EMPLOYEES REQUIRED TO MAINTAIN A COMMERCIAL DRIVER'S LICENSE (CDL) Effective January 1, 1995

I. INTRODUCTION AND PURPOSE

It is the policy of the State of New Jersey to maintain a drug free workplace in accordance with Executive Order #204, 1989.

As a public employer, the State of New Jersey is firmly committed to operating in the safest and most efficient manner possible. As a responsible employer, it is also committed to promoting the safety and welfare of its employees. The problem of drug and alcohol abuse in our society is a potential threat to those objectives, endangering not only the motoring public, but also the personal lives of its employees.

In order for the State to meet its commitments to the public and its employees, it is essential that the State operate in an alcohol and drug free environment, and that its employees be free from the effects of alcohol and other mind-altering drugs. It is the responsibility of each employee to ensure that he/she is alcohol and drug free in compliance with the requirements outlined in this policy.

The purpose of this document is to implement a drug and alcohol testing program as required by Federal regulations cited below for employees performing safety-sensitive functions which require the employee to maintain a Commercial Driver's License.

II. AUTHORITY

This policy was developed in accordance with the following Federal rules and regulations which apply to the State of New Jersey:

Department of Transportation, Office of the Secretary, 49 CFR Part 40 - Procedures for Transportation Workplace Drug Testing Programs; Final Rule

Department of Transportation, Office of the Secretary 49 CFR Part 382 et al. - Controlled Substances and Alcohol Use and Testing

Moreover, any employment action taken by an appointing authority for violation of the provisions of this policy shall be taken in accordance with Title 11A, N.J.S.A., Title 4A of the New Jersey Administrative Code and any applicable procedures contained in collective bargaining agreements.

DRUG AND ALCOHOL TESTING POLICY

III. APPLICABILITY

The following policy shall apply to all principal executive departments in New Jersey State Government.

As a condition of employment, this policy applies to all employees* whose job duties include the performance of safety-sensitive functions related to the operation of a commercial motor vehicle, as defined below, for which the employee is required to maintain a Commercial Drivers' License valid in the State of New Jersey. This applies to employees whose job includes such functions on a regular or occasional basis where the employee may have a distinct possibility of performing safety-sensitive functions when on-duty. It also applies to employees who perform safety-sensitive functions on an intermittent basis, such as a temporary worker.

*NOTE: Law enforcement employees are also covered by the Drug Screening Guidelines promulgated by the N.J. Attorney General, effective October 22, 1986 and amended on August 1, 1990.

IV. DEFINITIONS

Alcohol - means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Use - means the use of any beverage, mixture, or preparation, including any medication, containing alcohol.

Commercial Motor Vehicle - means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- Has a gross vehicle weight rating of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (USDOT 49 CFR part 172, subpart F).

DRUG AND ALCOHOL TESTING POLICY

Controlled Substance - Has the meaning assigned by 21 U.S.C. 812 including substances listed on Schedules I through V as they may be revised from time to time (21 CFR Parts 1301-1316), and including those substances defined by N.J.S.A. Title 24 and companion regulations as they may be revised from time to time.

Criminal Drug Statute - Federal or State Criminal Statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Drug - Interchangeable use with the term "controlled substance". Unless otherwise provided, refers to marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamines).

Medical Review Officer - Designated State doctor(s) or contract physician(s) with appropriate medical training and knowledge of substance abuse conditions, authorized to receive, review and report laboratory drug test results.

On Duty - Any time period (regular work hours, overtime, hourly services), including breaks, during which an employee is required to comply with a directive from a supervisor and the employee may be expected to perform and/or be available to perform a safety-sensitive function.

Performing a Safety-Sensitive Function - any period in which a driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive function.

Positive Alcohol Test - A breath alcohol level of .04 or greater as measured by a breath analysis machine approved for use by the FHWA and appearing on the "Conforming Products List" in Federal Register.

Positive Drug Test - A controlled substance test result reported positive by the laboratory and subsequently confirmed upon review by the medical officer as evidence of prohibited drug use.

DRUG AND ALCOHOL TESTING POLICY

Safety-Sensitive Function - means any on-duty function as follows:

- All time at a carrier or shipper plant, terminal, facility or other property, waiting to be dispatched, unless the employee has been relieved from duty by the supervisor.
- All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any commercial vehicle.
- All time spent at the driving controls of a commercial motor vehicle.
- All time, other than driving time, spent on or in a commercial motor vehicle.
- All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
- All time spent performing the driver requirements associated with an accident.
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Subject to Duty - Any time period an employee is required to be available to report for duty to perform a safety-sensitive function.

Supervisor or Supervisory Employee - An employee with responsibility for directing the work of other employees, but not a co-worker.

Workplace - Any location, including but not limited to garages, depots, yards, offices, field or road sites, whether or not owned or operated by the State of New Jersey, where official State business is conducted or where job duties are performed.

V. POLICY

A. Voluntary Participation in Treatment

Employees in safety-sensitive functions who have drug and/or alcohol abuse problems are encouraged to voluntarily seek treatment. Treatment may be sought through the employer (Employee Advisory Service) or independently by the employee without employer involvement.

Employees may be able to avoid negative consequences regarding their employment by seeking help to correct their substance abuse problem.

DRUG AND ALCOHOL TESTING POLICY

B. **Prohibited Conduct**

As a condition of employment, all covered employees are prohibited from:

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or above.
2. Being on duty or operating a commercial motor vehicle while in the possession of alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicine containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
3. Using alcohol while performing safety-sensitive functions.
4. Performing safety-sensitive functions within four hours after using alcohol.
5. When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
6. Reporting for duty or remaining on duty which may require the performance of safety-sensitive functions when the driver distributes, possesses or uses any controlled substance (E.O. No. 204), except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. **NOTE: Covered employees shall provide notice of such therapeutic use of controlled substances. Appointing authorities shall establish appropriate procedures for reporting of such information by employees and to protect the confidentiality of such information, pursuant to the requirements of the Americans with Disabilities Act, 28 C.F.R. Part 35.**
7. Reporting for duty if the individual tests positive for controlled substance(s).

DRUG AND ALCOHOL TESTING POLICY

No manager or supervisor having knowledge that a covered employee is in violation of any of the above shall permit the employee to perform or continue to perform safety-sensitive functions. Managers or supervisors who fail to comply with their responsibilities will be subject to formal discipline, up to and including removal.

Violation by any employee of any of the above prohibitions is subject to disciplinary action, up to, and including removal.

C. Requirement of Cooperation with Collection and Testing

1. Each employee or individual with a conditional offer of employment required to be tested for drugs and/or alcohol pursuant to this policy must provide adequate, valid, undiluted, unadulterated breath and/or urine samples as requested, must supply the information necessary to identify the samples (i.e. complete paperwork and initial specimen) and otherwise cooperate with the collection and testing procedures. Failure to provide such samples, without a valid medical explanation, shall constitute refusal to cooperate.
2. Refusal to cooperate will result in immediate disciplinary action. Any individual with a conditional offer of employment who refuses to cooperate will not be hired.

D. Circumstances Under which Drug and/or Alcohol Testing will be Administered

All testing as described below will be performed with standardized equipment and certified laboratories in accordance with the procedures established in 49 CFR Part 40, et. al.

Additionally, nothing in this policy shall be construed to authorize any delay in obtaining emergency medical treatment, where appropriate, for a covered employee.

Individuals will be notified of all positive laboratory results of any drug test and provided with an opportunity to discuss the results with the Medical Review Officer prior to a final determination and reporting of the test results as positive.

DRUG AND ALCOHOL TESTING POLICY

Drug and/or alcohol testing will be administered as follows:

1. Pre-employment

All notices for employment opportunities requiring the possession of a Commercial Driver's License for the performance of safety-sensitive functions shall include notice of the requirement to undergo testing for alcohol and controlled substances upon the receipt of a conditional offer of employment. This includes those notices issued by the Department of Personnel, as well as all job opportunities posted by State appointing authorities.

a) Post-offer for Final Applicants

All individuals receiving conditional offers of employment for positions requiring the performance of safety-sensitive functions will be required to undergo testing for alcohol and controlled substances before final employment is confirmed. This category includes, but is not limited to, new employees, former employees returning to State service via reemployment lists, interim appointees, and temporary employees.

b) Movement of Current Employees

Current State employees who are initially assigned or reassigned to a safety-sensitive function in which service has not been rendered for six months or more are required to be tested prior to starting work in the new function. This category includes, but is not limited to, reassignments, temporary or interim appointments, demotions, promotions, transfers, and appointments resulting from a reduction-in-force.

All individuals will be notified of the result of any drug or alcohol pre-employment test that is positive. An individual who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be given the opportunity to be retested, but not less than 24 hours of administration of the first test.

DRUG AND ALCOHOL TESTING POLICY

An individual who tests positive for a controlled substance or 0.04 or above on the first test for alcohol will not be hired. Individuals who are given an opportunity for a second alcohol test, as described above, and are still found to have an alcohol concentration of 0.02 or greater but less than 0.04, will not be hired due to inability to be assigned to perform safety-sensitive functions.

2. Post-Accident Testing

Following an accident involving a commercial motor vehicle, employees shall be tested for alcohol and controlled substance use when:

- a) the accident involves the loss of human life; or
- b) the employee receives a citation under State or Local Law for a moving traffic violation arising from the accident.

Such testing shall be done as soon as practicable following the accident provided that:

- a) Under no circumstances shall a post-accident test for alcohol be administered beyond the 8 hour period immediately following the accident.
- b) Under no circumstances shall a post-accident test for controlled substances be administered beyond the 32 hour period immediately following the accident.

Under this type of testing, employees will be removed immediately from the performance of safety-sensitive functions pending the outcome of the test(s).

3. Random Testing

All employees covered by this policy will be subject to random, unannounced drug and alcohol testing. Selection of employees will be by a method employing a scientifically valid random number generation method and objective, neutral criteria which ensure that every such employee has an equal statistical chance of being selected each time.

All employees will be subject to testing only while on duty, as defined in Section IV herein. The testing frequency level shall be in conformance with the standards established by the Federal Highway Administration and published in the Federal Register on an annual basis.

DRUG AND ALCOHOL POLICY TESTING

Drivers who test positive for a controlled substance and/or 0.04 or above for alcohol will be removed from safety-sensitive functions. They must not return to duty requiring safety-sensitive functions until they have been evaluated by a substance abuse professional and complied with any treatment recommendations. Drivers who test at an alcohol concentration level of 0.02-0.039 must be removed from safety-sensitive functions for 24 hours.

4. Reasonable Suspicion Testing

a) Alcohol Testing

An on-duty employee shall be required to submit to an alcohol test when the supervisor has reasonable suspicion to believe the employee has violated Section V.B. Prohibited Conduct of this Policy related to alcohol. The supervisor's determination that reasonable suspicion exists must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Under no circumstances shall a test for alcohol under these conditions be administered beyond the 8 hour period immediately following the supervisor's determination.

b) Controlled Substance Testing

An on-duty employee shall be required to submit to a test for controlled substances when the supervisor has reasonable suspicion to believe the employee has violated Section V.A. Prohibited Conduct of this Policy related to controlled substances. The supervisor's determination that reasonable suspicion exists must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The required observations for alcohol and/or controlled substances shall be made by a supervisor who has been trained in accordance with Section V.E. of this policy.

DRUG AND ALCOHOL TESTING POLICY

In all cases of reasonable suspicion testing, supervisors shall be required to document their observations in a standard manner as adopted in the appointing authority's operating procedures.

Under this type of testing, employees will be removed immediately from the performance of safety-sensitive functions pending the outcome of the test(s).

5. Return-to-Duty Testing

Each appointing authority shall ensure that before a covered employee returns to duty requiring the performance of safety-sensitive functions after engaging in conduct prohibited by Section V.B. of this policy concerning alcohol, the employee undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

Individuals who are given an opportunity for a second alcohol test, as described above, and are still found to have alcohol -concentration of 0.02 or greater but less than 0.04, shall be subject to disciplinary action.

Each appointing authority shall ensure that before a covered employee returns to duty requiring the performance of safety-sensitive functions after engaging in conduct prohibited by Section V.B. of this policy concerning controlled substances, the employee undergoes a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substance use.

6. Follow-up Testing

When an employee is permitted to return to duty requiring the performance of safety-sensitive functions, the employee shall be subject to unannounced follow-up alcohol and/or controlled substances tests at least six (6) times in the first 12 months following the return-to-duty. Additional follow-up testing after the first year shall not exceed 60 months from the date of the employee's return-to-duty. The number and frequency of such follow-up testing shall be as directed by a substance abuse professional.

E. Training

Each appointing authority shall ensure that persons designated to determine whether reasonable suspicion exists to require an employee to undergo testing receive at least 60 minutes of training on alcohol misuse and

DRUG AND ALCOHOL TESTING POLICY

receive at least an additional 60 minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

F. Confidentiality

Information regarding a medical condition obtained in the course of drug and alcohol testing must be treated as a confidential medical record. Such information shall be collected and maintained on separate forms and in medical files separate from the employee's personnel file.

The Laboratory performing drug testing under this policy shall report individual test results to the Medical Review Officer (MRO) only. The results shall not be disclosed by the laboratory to any other person other than to the individual who provided the sample.

The MRO can release controlled substance test results to the employer only after they have been confirmed positive and only after the MRO has made all reasonable efforts to discuss the results with the individual who provided the sample.

Statistical compilations, without individual identifiers, may be made available to the public.

Any individual who is the subject of a drug test, shall upon written request, have access to any records relating to his/her drug test.

G. Employee Notification

1. Each appointing authority or agency covered by this policy shall establish the necessary operational procedures to implement this policy in accordance with the standards established in 49 CFR Parts 383, et al. and provide notice to all covered employees by copy of the policy and an explanation of the procedures prior to implementing any testing procedures.
2. All employees shall sign acknowledging the receipt of the policy and an explanation of the procedures and such receipt shall be maintained in the employee's personnel file.

DISCIPLINE POLICY

Alcohol & Drug Testing For Commercial Vehicle Drivers

This Discipline Policy is in accordance with the Statewide Policy for Drug & Alcohol Testing of Employees Required to Maintain a Commercial Driver's License (CDL). This policy shall apply to all principal executive departments in New Jersey State Government.

Alcohol & Drug Testing

Post Accident - The Appointing Authority shall remove, subject to the appeal process and final decision of the Merit System Board for those employees in the Career Service, any CDL Employee found with an alcohol concentration of 0.04 or greater and/or testing positive for a controlled substance when the accident and/or the fatality is the fault of the driver.

For the purpose of this policy, an accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, or a citation issued under State or local law against the employee for a moving violation arising from the accident.

Reasonable Suspicion - The Appointing Authority shall remove, subject to the appeal process and final decision of the Merit System Board for those employees in the Career Service, any CDL employee found with an alcohol concentration of 0.04 or greater and/or testing positive for a controlled substance after a reasonable suspicion determination has been made and verified.

For the purpose of this policy, "Reasonable Suspicion" is defined as the documented supervisory observations evidencing that the driver has violated the alcohol and/or controlled substances prohibitions based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Random Selection

First Offense - Any CDL employee with an alcohol concentration of 0.04 or greater and/or testing positive for a controlled substance shall be immediately referred to the Employee Advisory Service (EAS). Employees must successfully complete the recommended treatment program and follow all requirements of continued after care. The employee will be placed on an approved medical leave of absence. The Appointing Authority shall remove, subject to the appeal process and final decision of the Merit System Board for those employees in the Career Service, of any employee refusing to enter the prescribed treatment program or to continue in prescribed after care.

Second Offense - The Appointing Authority shall remove, subject to the appeal process and final decision of the Merit System Board for those employees in the Career Service, any CDL employee tested with an alcohol concentration of 0.04 or greater and/or testing positive for a controlled substance.

Return to Work/Follow-Up - Any CDL employee who is returning to work after completing a prescribed treatment program must test negative for alcohol and controlled substances and shall be subject to a minimum of six follow-up alcohol and/or controlled substance tests in the first twelve months; and additional testing for up to a maximum of 60 months from the return to duty. Failure of any return-to-work or follow-up test demonstrates that the employee has not remained alcohol and/or controlled substance free after counseling and treatment. In these instances, the Appointing Authority shall remove, subject to the appeal process and final decision of the Merit System Board for those employees in the Career Service, any CDL employee who fails a return-to-work or follow-up test.

The Appointing Authority shall formally discipline, up to and including removal any supervisor of a CDL employee for failure to comply with their responsibilities with regard to the Statewide Policy.

NOTE: Law Enforcement employees are also covered by the Drug Screening Guidelines promulgated by the Attorney General, effective October 22, 1986 and amended on August 1, 1990.

